

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

W.C.,

Plaintiff,

vs.

COMPLAINT

Modesto Fontanez,

Index No.

Defendant.

Plaintiff, W.C., by his attorneys, Smith, Sovik, Kendrick & Sugnet, P.C., complaining of the Defendant, Modesto Fontanez (“Fontanez”), respectfully alleges as follows:

1. Plaintiff was a resident of Puerto Rico when the acts of sexual abuse by Defendant Fontanez occurred.
2. Plaintiff currently resides outside the State of New York, and is a citizen of the United States.
3. Upon information and belief, Defendant Fontanez resides in New York County.
4. Plaintiff is identified herein as W.C. to protect his privacy due to the sexual nature of the offenses committed by Defendant Fontanez while Plaintiff was under the age of seventeen.
5. Upon information and belief, at all times relevant hereinafter mentioned, Defendant Fontanez was at all times over the age of eighteen.
6. As a result of Defendant Fontanez’s conduct, Plaintiff suffered physical, psychological, and other injuries.
7. The Court has jurisdiction over this action. Venue is proper in the United States District Court, Southern District of New York, based upon the diversity of citizenship and the

amount in controversy being over \$75,000. The action is timely commenced pursuant to the New York State Child Victim's Act, CPLR § 213-g.

8. Defendant Fontanez committed conduct that constituted sexual offenses as defined in article one hundred thirty of the New York Penal Law against Plaintiff, while Plaintiff was under 17 years of age ("sexual offenses").

AS AND FOR A FIRST CAUSE OF ACTION

9. Plaintiff reiterates each and every allegation contained in paragraphs "1" through "8" above as though fully restated here.

10. On multiple occasions Defendant Fontanez intentionally had sexual contact, molested, committed lewd and lascivious acts, and other such sexual offenses against Plaintiff while Plaintiff was a minor, all of which would constitute a violation of the New York Penal Law.

11. As a result of the foregoing, Plaintiff sustained serious, severe and permanent personal injuries and will continue to suffer in the future.

12. Defendant Fontanez is liable to Plaintiff under the terms of the New York State Child Victim's Act.

13. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

AS AND FOR A SECOND CAUSE OF ACTION

14. Plaintiff repeats and realleges each and every allegation contained in paragraphs "1" through "13" above as if fully stated herein.

15. In doing the criminal, extreme, and outrageous sexual acts alleged, Defendant Fontanez acted intentionally, maliciously, and recklessly, for the purpose of causing Plaintiff harm,

including but not limited to, humiliation, mental anguish, and severe emotional and physical distress.

16. Defendant Fontanez's outrageous actions caused Plaintiff severe emotional and physical distress. The emotional distress sustained by Plaintiff was severe and of such a nature that no reasonable person could be expected to endure it.

17. As a result of the foregoing, Plaintiff sustained serious, severe, and permanent personal injuries and will continue to suffer in the future.

18. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

19. Plaintiff demands a jury trial of all issues.

WHEREFORE, Plaintiff, W.C., demands judgment against Defendant, Modesto Fontanez, as follows:

- a. Compensatory damages;
- b. General damages, including but not limited to pain and suffering;
- c. Special damages according to proof;
- d. Interest, pre-judgment and post-judgment interest, according to law;
- e. Costs and attorney fees;
- f. Punitive damages; and
- g. Such other relief as this Court deems just and proper.

Dated: July 23, 2020

Yours, etc.

SMITH, SOVIK, KENDRICK & SUGNET, P.C.

By:

Steven W. Williams, Esq.

Attorneys for Plaintiff

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